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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,571	06/24/2005	Naoe Sakurai	272232US0PCT	6457
22850	7590	08/28/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
NGUYEN, THUY-AI N				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
08/28/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/540,571

Applicant(s)

SAKURAI ET AL.

Examiner

Mark Eashoo, Ph.D.

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jutila (WO 91/18588) in view of Lyle et al. (US 2002/0128168).

Regarding claims 1 and 2: Jutila teaches a detergent/cleanser composition comprising an anionic surfactant, specifically a phosphate surfactant (DEA-oleth-3 phosphate), and trimethylglycine (page 12 lines 3-16). The ratio of the surfactant to trimethylglycine is 1/2, which falls within the claimed range.

Jutila does not teach the pH of the composition. However, Lyle et al. teaches a similar composition comprising cocoamidopropyl betaine, which has the same backbone as trimethylglycine and a sulphate anionic surfactant. The pH is adjusted to 4.9 (para. 84). Jutila and Lyle et al. are analogous art because they are both concerned with the same field of endeavor, specifically cleansing compositions comprising a betaine/trimethylglycine and an anionic surfactant. At the time of the invention a person having ordinary skill in the art would have found it obvious to combine the pH adjustment of Lyle et al. with the composition of Jutila and would have been motivated to do so for such desirable properties as good lathering and softness on the skin.

Regarding claim 3: Jutila teaches the anionic surfactant, DEA-oleth-3 phosphate in an amount of 2.5% and the trimethylglycine in an amount of 5.0%, which overlaps the claimed ranges (page 12 lines 3-16).

Regarding claim 4: Jutila teaches amphoteric-1, an amphoteric surfactant in an amount of 5.0% (page 12 lines 3-16).

Regarding claim 5: Jutila teaches it cleans skin (page 12 line 3).

Regarding claim 6: While Jutila does not teach that the composition is a face wash, Official Notice is taken that at the time of the invention a person having ordinary skill in the art would have found it obvious to

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use this composition as a face wash and would have been motivated to do so since Jutila discloses it is used best as a "skin cleanser for oily skin". Most cleansers marked for oily skin are used on the face since this part of the body becomes oily more quickly than other areas of skin.

Regarding claim 7: While this embodiment of Jutila does not contain the anionic surfactant in an amount between 5 and 40%, the shampoo embodiment comprises the sodium lauryl ether sulphate anionic surfactant in an amount of 40% (page 11 lines 25-36). At the time of the invention a person having ordinary skill in the art would have found it obvious to add more anionic surfactant and would have been motivated to do so since Jutila states that they are effective for fat removal from skin and hair.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication should be directed to Mark Eashoo, Ph.D. at telephone number (571)272-1197.

/Mark Eashoo, Ph.D./

Supervisory Patent Examiner, Art Unit 1796

25-Aug-08